

REPORT TO CONGRESS

Notification and Federal Employee
Anti-Discrimination and
Retaliation Act of 2002



FISCAL YEAR 2007

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INTRODUCTION

The Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (commonly known as the “No FEAR Act”), Public Law 107-174, was enacted on May 15, 2002. It was the sense of Congress to increase accountability regarding violations of antidiscrimination and whistleblower protection laws. The No FEAR Act directed Federal agencies to post quarterly equal employment opportunity (EEO) complaints data on its public Web site, reimburse the Judgment Fund, and submit an annual report to Congress.

The No FEAR Act requires Federal agencies to submit annual reports to the Speaker of the House of Representatives, the President *pro tempore* of the Senate, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, each committee of Congress with jurisdiction relating to the Agency, the Attorney General, and the EEOC, not later than 180 days after the end of each fiscal year. This report is submitted by the Defense Logistics Agency (DLA) to satisfy this reporting requirement. Agencies must report on the number of Federal district court cases arising under each of the respective areas of law specified in the Act in which discrimination was alleged; the status or disposition of cases; the amount of money required to be reimbursed; the number of employees disciplined; any policies implemented related to appropriate disciplinary actions against a Federal employee who discriminated against any individual, or committed a prohibited personnel practice; and an analysis of the data collected with respect to trends, causal analysis, etc.

In accordance with Section 203 of the No FEAR Act, this DLA second Annual Report to Congress includes the following data and analysis for fiscal years (FYs) 2003 to 2007:

- Number and status of cases arising under antidiscrimination and whistleblower protection laws;
- Amount of money reimbursed to the Judgment Fund;
- Number of employees disciplined for discrimination, retaliation, harassment, etc.;
- Final year-end statistical data posted;
- Agency policy regarding disciplinary actions against employees who violated discrimination laws or commit other prohibited personnel practices; Number of employees disciplined with such policy;
- Examination of trends, causal analysis, experiential knowledge, and actions (taken or planned) to improve complaint or civil rights programs; and
- Adjustments needed to comply with reimbursement requirements.

EXECUTIVE SUMMARY

The Defense Logistics Agency (DLA) is a U.S. Department of Defense (DoD) Combat Support Agency. The DLA Director reports to the Under Secretary of Defense for Acquisition, Technology and Logistics through the Deputy Under Secretary of Defense (Logistics and Materiel Readiness). DLA provides worldwide logistics support for the missions of the Military Departments and the Unified Combatant Commands under conditions of peace and war. It also provides logistics support to other DoD Components and certain Federal agencies, foreign governments, international organizations, and others as authorized. DLA's workforce is made up of over 20,000 civilian and military employees located in 48 states and 28 countries.

The DLA Corporate EEO Office administers and ensures Agency compliance with the laws, regulations, policies, and guidance that prohibit discrimination in the Federal workplace based on race, color, national origin, religion, gender, age, disability, or reprisal. The DLA Field Activity¹ EEO Offices are primarily responsible for encouraging resolution and processing of EEO pre-complaints and formal complaints, in accordance with applicable Federal EEO laws and regulations. In addition to complaints processing, the Corporate and Field Activity EEO Offices are responsible for ensuring that Agency employees are trained in EEO and the Agency's EEO alternative dispute resolution (ADR) program. Additionally, the DLA Corporate EEO Office is primarily responsible for preparing final decisions for the Director, DLA or designee, and ensuring that the Agency is in compliance with the requirements of Federal EEO laws and regulations, including but not limited to, the monitoring of DLA Field Activity EEO Office complaint processing activities. The DLA Corporate EEO Office issues policy; and provides information, guidance and leadership to DLA's managers and supervisors in implementing equal employment opportunity (EEO) law and higher-level EEO directives throughout DLA.

Federal No Fear Act Training Requirements Met

DLA has complied with the mandatory requirements of the No Fear Act by providing written notice "to all of its employees, former employees, and applicants for Federal employment about the rights and remedies available under the Antidiscrimination Laws and Whistleblower Protection Laws..." As previously reported, in compliance with this requirement, in FY 2006 DLA developed a DLA-wide notice and published it on the DLA website. Currently all DLA vacancy announcements include a link to the notice. Additionally, a computer based No Fear Act training module was deployed Agency wide. As mandated by the Federal No Fear Act, a part of DLA's No Fear Act training module has also been made a part of the DLA New Employee Orientation. The No Fear Act training module was initially deployed in

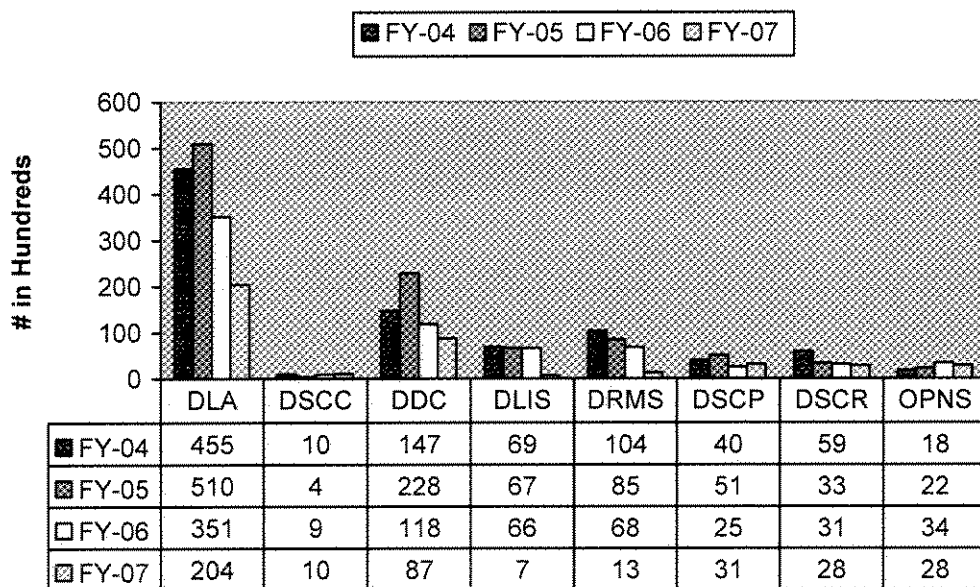
¹ Defense Supply Center Columbus (DSCC), Defense Supply Center Philadelphia (DSCP), Defense Supply Center Richmond (DSCR), Defense Reutilization and Marketing Service (DRMS), Defense Distribution Center (DDC), Defense Logistics Information Service (DLIS) and the DLA EEO Operations Office.

November 2006. By the end of the training period, 20,124 of the 21,324 (total number includes some DLA military and Reserve members) employees had completed the online training for an approximate 94.5% completion rate. Since that time DLA has continued to provide the required No Fear Act training to all new DLA employees. It should be noted that a small number of DLA employees still may not have access to the computer based training module because of their physical location, deployment in support of combat operations, or technology inaccessibility. To address this barrier, employees that are located at remote sites or that do not have access to computers are provided No Fear Act training through their supervisory chain. All DLA employees that are trained in this method are required to provide proof of completion to Agency designated collection depositories.

DLA timely posted and prominently displayed a link to No FEAR Act data on its main website (www.dla.mil/do/nofear.asp) not later than thirty (30) days after the end of each quarter within FY07. Final year-end data may be found at Appendix A.

Informal Complaint Processing

Comparison in the # of DLA Informal Complaints filed from FY-04 thru FY-07



A review of informal complaint activity from FY 2004 through FY 2007 revealed that, since FY 2005 the number of informal complaints filed across the Agency continues to decline. Although the highest number of complaints filed remains at DDC, this is attributed to the larger number of employees serviced.

Formal Complaints Processing

During FY 2007, there were 91 complaints filed which indicates a decrease from FY 2006 (111 formal complaints filed). Noteworthy is that the number of formal complaints have continued to decline since FY 2004. This decline may be attributed to a number of undetermined factors, i.e., intervention in terms of encouragement of resolution of complaints or alternative dispute resolution efforts, etc. Also, during FY 2007, the average processing time for issuing final agency decisions increased from 178.55 days in FY 2006 to 353.34 days from filing to closure.

Investigations

During FY 2007, the number of investigations increased from 40 in 2006 (208 average processing days) to 65 (250.6 average processing days). All DLA investigations were conducted by the Defense Civilian Personnel Management Service Investigations and Resolutions Division (IRD). There were no contract investigations during this reporting period. Of the 65 investigations conducted, 14 were completed within 180 days for an average of 138.6 days. 43 of the formal investigations were completed in 181-360 days for an average of 255.2 days. 36 investigation were completed in 361 days or more for an average of 254.4 days. As of September 30, 2007, there were 40 cases pending investigation and the Agency's average was 151.5 processing days to completion of the investigation.

Hearings

As of September 30, 2007, there were 56 cases that were pending hearings before the U.S. Equal Employment Opportunity Commission (EEOC). The Agency average processing days for adjudicating cases from formal to hearing was 565.8. This is a decrease from September 30, 2006 when there were 40 cases that were pending hearing and the average processing days were 503.5. It should be noted that EEOC hearings are solely within the jurisdiction of the EEOC. DLA has no control over the processing days for hearings before the Commission.

Final Agency Actions

During FY 2007, the Agency issued a total of 51 final agency decisions on the merits for an average of 485.9 processing days from filing to closure. This represents an increase in processing days from FY 2006 when there were 44 decisions issued on the merits for an average of 324.8 processing days from filing to decision. There were also 4 cases closed as a result of withdrawals and the average processing days was 295.2, an increase from FY 2006 where there were 8 withdrawals and the average processing days was 80.7. During FY 2007 there were 34 cases closed as a result of settlements and the average processing days were 161.3, which is a significant decrease from FY 2006 where the average for settlement withdrawals was 234.60.

Also, there was a total of 15 decisions issued by EEOC Administrative Judges during FY 2007 and the average processing days was 893.2, a significant increase from FY 2006 where there was 23 final decisions issued and the average processing days was 526.7. As of September 30, 2007, there were 56 cases pending hearings after investigation and the average processing days was 565.8. This represents a significant increase from FY 2006 where there was 71 cases that were pending final Agency action after an investigation and the average processing days was 155.8. Also, during this same time frame, there were 40 cases pending investigation and the average processing days was 151.5, which represents a minor decrease from FY 2006 when there were 71 cases pending investigation and the average processing days was 155.8. Finally, as of 30 September, 2007, there were 33 cases pending final agency decisions and the average processing days was 620.1, which represents a significant increase from FY 2006 and the average processing days was 478.0.

Bases of Complaints

During FY 2007, DLA complainants identified sex (45 allegations), age (38 allegations), reprisal (28 allegations), race (24 allegations), and disability (22 allegations), respectively, as the most common bases for filing. For details, please see FY 2007 year end data (Appendix C).

Issues

During FY 2007, complainant's identified promotions (30 claims) most frequently as the issue that gave rise to their complaint. Non-sexual harassment was the second most frequent issue that gave rise to complaints (23 claims). The third most frequently raised issue during FY 2007 assignment of duties issues (7 claims). For details, please see FY 2007 year end data (Appendix C).

Findings of Discrimination

During FY 2007, there was one finding of discrimination. The basis of the complaint was sex. In this instance, the finding was made without an EEOC Hearing. When there is a finding of discrimination, the Agency takes corrective action. There were no instances during this reporting period where there was a finding after an EEOC hearing.

Discipline

Section 203(a)(6) of the No FEAR Act requires that agencies include in the Annual Report to Congress a detailed description of the policy implemented by the Agency relating to disciplinary actions imposed against a Federal employee who discriminated against any individual in violation of any of the laws cited under section 201(a) (1) or (2), or committed another prohibited personnel practice that was revealed in the investigation of a complaint alleging a violation of any of the laws cited under section 201(a) (1) or (2). Further, the Act requires that, with respect to each such law, the Federal Agency report on the number of employees who were disciplined in accordance with such policy and the specific nature of the disciplinary action taken.

The Director, DLA, has issued a policy statement that reinforces DLA's commitment to establish a workplace free from discrimination, harassment and retaliation. The DLA employees are accountable for their actions which are outlined in this policy statement. Specifically, the Equal Employment Opportunity Policy Statement (See Appendix A) emphasizes DLA's determination to subject employees to appropriate disciplinary action for engaging in unlawful discriminatory practices or allowing discriminatory practices to exist.

In the previous reporting years (FY 2000 to FY 2005) there have been three removals for sexual harassment incidents; one proposed removal but the employee retired; and one proposed removal with last chance agreement (employee is still employed with the Agency). Also during FY 2000 to FY 2005, there were two removals for discrimination.

During FY 2006, there was only one case involving disciplinary action for what was tantamount to a prohibited personal practice. In March 2006, an Agency supervisor received a 30 day suspension for assisting a subordinate supervisor in attempting to stop an employee from filing an EEO complaint (against the subordinate supervisor). A copy of the Agency's policy and table of penalties is attached (Appendix B).

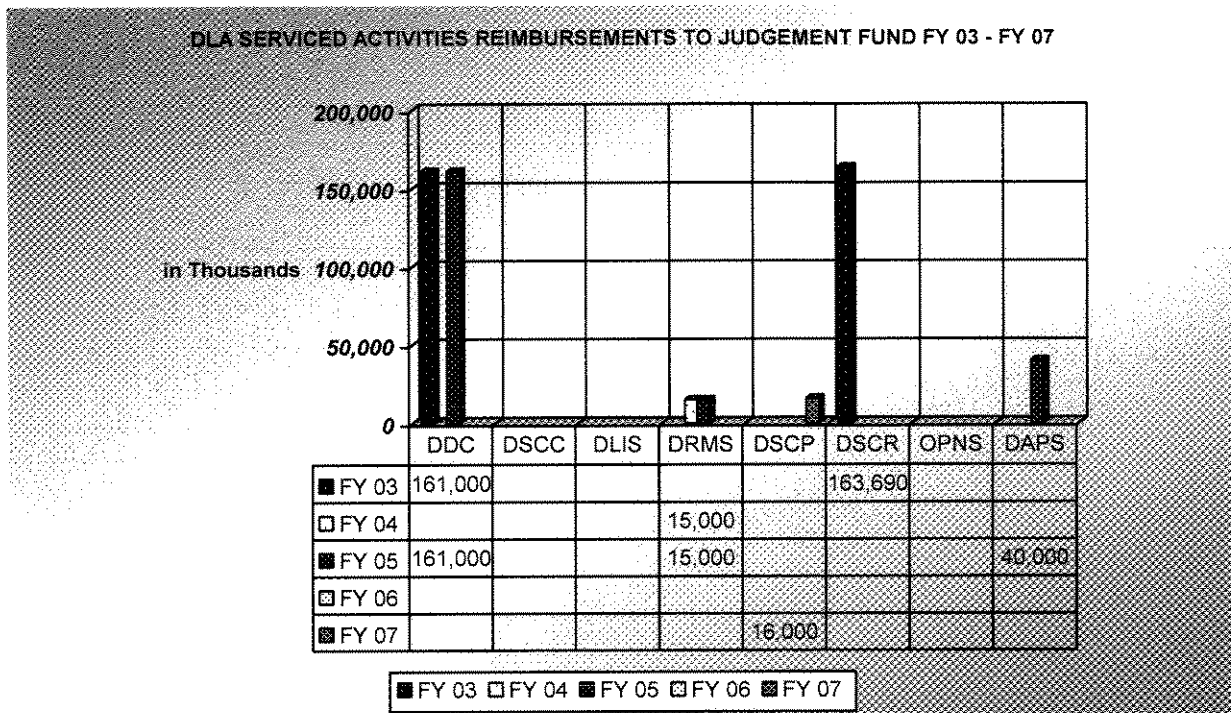
During FY 2007, although there was one finding of discrimination, there has been no record of disciplinary action(s) related to this matter being taken at the time of this report. Any disciplinary action taken subsequent to this decision may be reported in DLA's FY 2008 reporting cycle.

Judgment Fund

The Office of Personnel Management (OPM) published interim final regulations in the Federal Register on January 22, 2004, to clarify the Agency reimbursement provisions of Title II of the No FEAR Act. These interim regulations, among other things, state that the Federal Management Service (FMS), U.S. Department of the Treasury will provide notice to an Agency's Chief Financial Officer within 15 business days after payment from the Judgment Fund. The Agency is required to reimburse the Judgment Fund within 45 business days after receiving the notice from FMS or must contact FMS to make arrangements in writing for reimbursement.

Although there were no reimbursements during this reporting period, DLA has reimbursed the Treasury Judgment Fund for monies owed to the Judgment Fund for most judgments, awards, and compromise settlements in previous years. FMS manages the Judgment Fund, which is available for court judgments and Justice Department compromise settlements of actual or imminent lawsuits against the Government. The No FEAR Act requires that Federal agencies reimburse the Judgment Fund for personnel discrimination payments made in accordance with 28 United States Code (§) 2414, 2517, 2672, or 2677.

A chart depicting the cumulative DLA reimbursements from FY 2000 through FY 2007 and an activity breakdown of money reimbursed to the Judgment Fund follows:



DLA Judgment Fund Reimbursements Breakdown by Activity

FY 2003

DSCR - \$163,690 (\$140,000 settlement to seven plaintiffs and \$23,690 in attorney fees)
 DDC - \$161,000 (2 cases -\$5,000 settlement and \$16,000 in attorney fees and one for \$66,000)

FY 2004

DRMS - \$15,000 (this case was settled October 25, 2004).

FY 2005

DDC – Reimbursed \$161,000.
 DRMS – Reimbursed \$15,000.
 DAPS – Paid by Treasury \$40,000 – does not indicate reimbursement has taken place.

The amount reimbursed to the Judgment Fund during FY 2005 was² \$176,000. There were no adjustments identified to comply with reimbursement requirements. Additionally, there were no cases arising under whistleblower protection laws.

² An amount of \$40,000, not in the \$176,000, was paid by Treasury on April 29, 2005 but does not show reimbursement.

FY 2006

There were no agency reimbursements to the Judgment Fund for monies owed to the Fund for judgments, awards, and compromise EEO settlements during FY 2006.

FY 2007

DSCP – Reimbursed \$16,000.00.

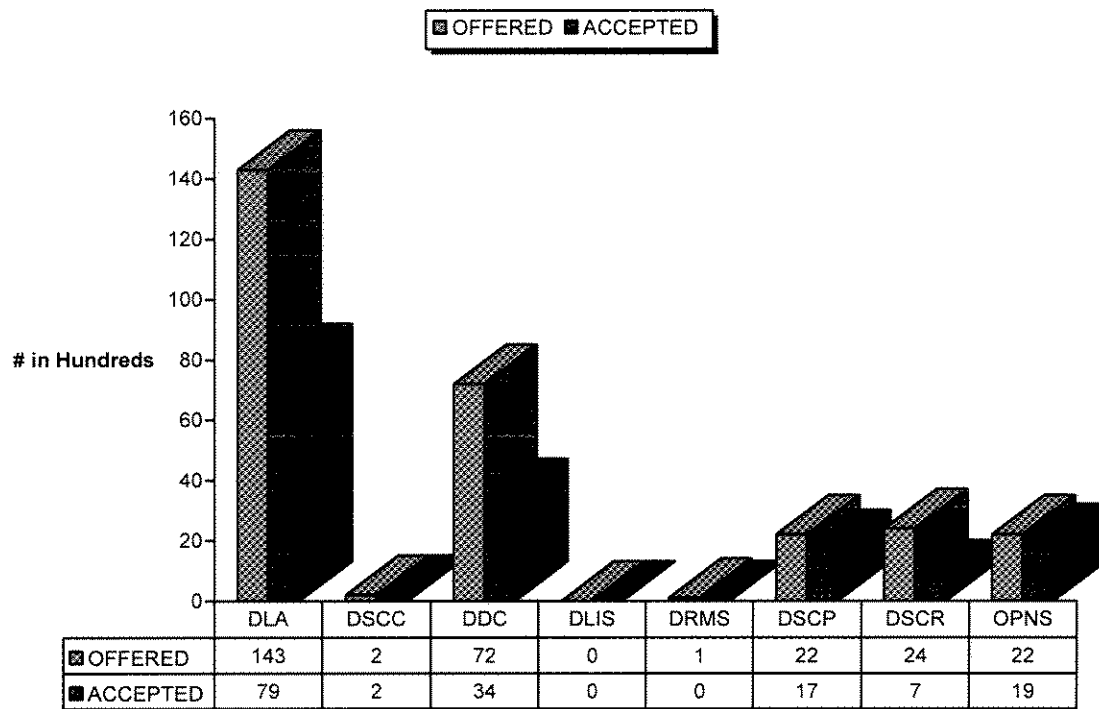
Collaborative Resolution Program/Alternative Resolution Program (ADR)

DLA's, Alternative Dispute Resolution (ADR) Program for EEO disputes is called Reach Equitable SOLutions Voluntarily and Easily (RESOLVE). In DLA, ADR programs have taken significant steps toward changing the way DLA manages conflict and have begun to build a strong foundation for preventing destructive conflict and, when conflict occurs, bringing it to a conclusion that all parties perceive as fair and equitable. Resolving conflict early can help maintain or restore relationships, both in the workplace and with users and recipients of DLA program services, while at the same time avoiding the costs of litigation, administrative hearings, or investigations.

At DLA, mediation is the most commonly used ADR process in which parties to a workplace dispute meet face-to-face. During FY 2007, 143 mediation (ADR) offers were made to employees in the early intervention stage of conflict. Of those requests, 50 participated in mediation and, of that number, 34 (68 percent) reached an agreement. The reasons that not all mediation requests end up in mediation vary: sometimes the conflict was resolved prior to mediation, sometimes the second party refused to mediate; sometimes the requesting party had a change of heart. The only other (non-mediation) forms of ADR used in FY 2007 were facilitation (9) and fact-finding (2). We have no data regarding the effectiveness of these alternative means of dispute resolution.

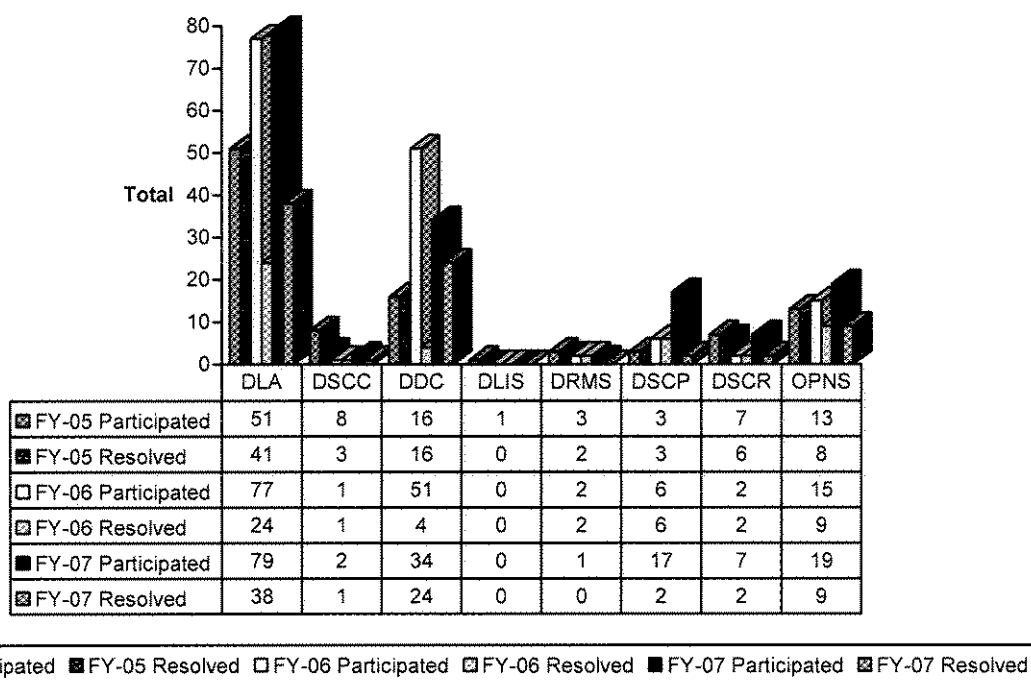
The number of known workplace conflicts at DLA – those employees that have entered one of the complaint or grievance systems, for example – suggests there are many opportunities for conflicts to be resolved in the early intervention stage that are being missed. One of the goals of early ADR usage is to reduce the number of EEO complaints and other more formal workplace grievances that are filed. Anecdotal evidence (the success rate of ADR) suggests that mediation and perhaps other ADR processes have indeed prevented the filing of EEO complaints. However, more extensive evaluation is necessary and will be conducted in the future to document both the successes and missed opportunities in these areas.

DLA ADR Participation in FY-07 (Informal Stage)



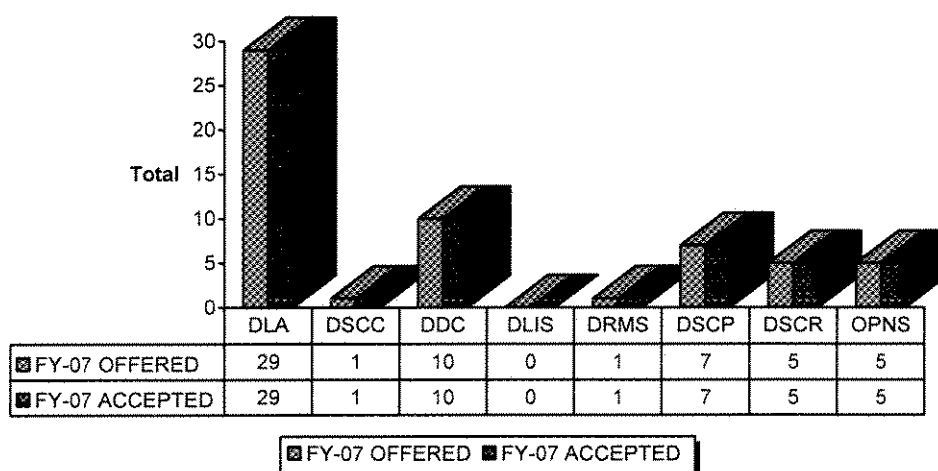
This chart depicts the total number of ADR activities by DLA FA's. This chart also depicts that the participation rate in the RESOLVE Program in FY 2007 was very low.

DLA ADR Participation v. Settlements in FY-05 until FY-07 (Informal)



This chart depicts that the resolution rate improved Agency wide during FY 2007. This is attributed to the DDC's resolution rate improvement from 7.8% in FY 2006 to 70.58% in FY 2007. The chart further depicts, however, that further improvements can be made at the field activity level.

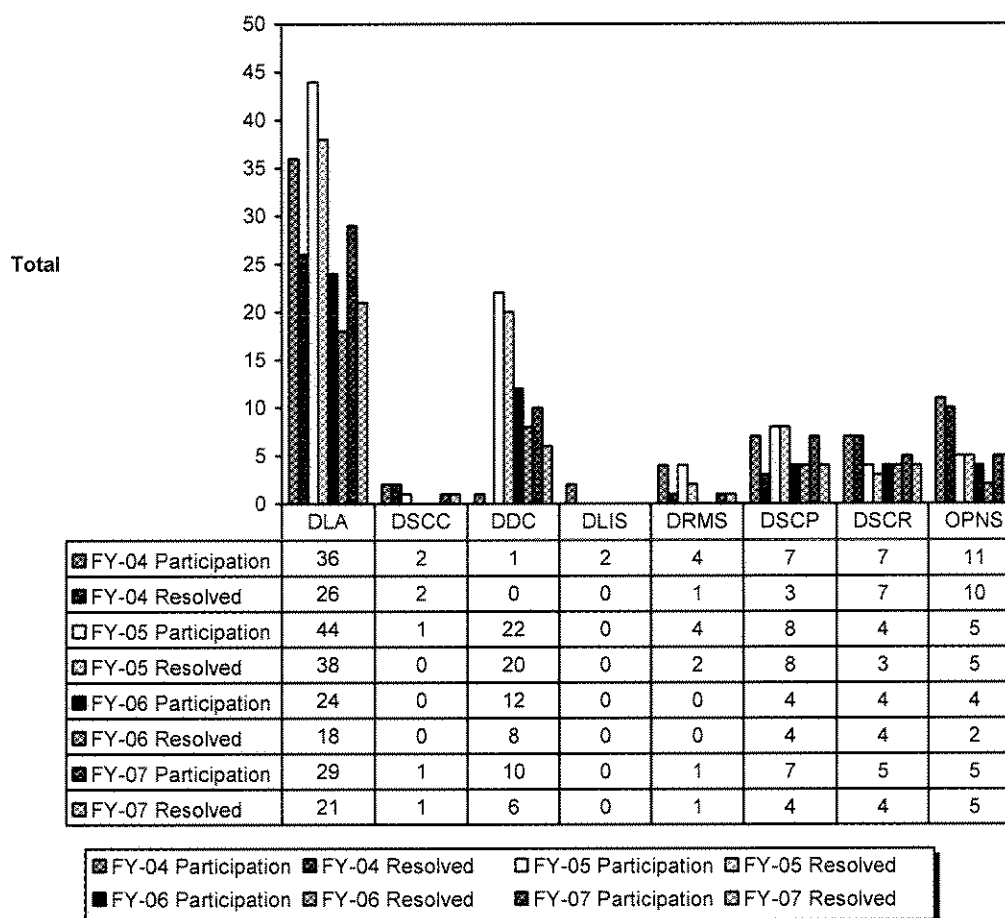
DLA ADR Participation in FY-07 (Formal Stage)



This chart depicts that in FY 2007, complainants were most likely to accept ADR during the formal stage of the complaint process. It should also be noted that during the formal investigation stage of the complaint process, IRD Investigators will normally

attempt resolution of complaints before conducting the formal investigation as a matter of policy. This may explain the relatively high acceptance rate of ADR during the formal stage.

Comparison of DLA ADR Participation v. Settlements for FY-04 until FY-07 (Formal Stage)



The chart above depicts a significant settlement rate (72.4% DLA-wide) for cases that are referred to ADR during the formal stage of the complaint process. Noteworthy is DLA Operations, per capita, exceptional 100% resolution rate in FY 2007.

Improvement Plan for Identified Barriers

During FY 2005, DLA deployed the DLA Workforce Analysis Tool (DWAT) and now has the capability to identify, analyze, monitor and report on any problems in this area. During FY 2006, DLA deployed an automated discrimination case management and information tracking tool (iComplaints). These tools enable the HQ DLA EEO staff to regularly conduct extensive workforce analysis to aid in determining barriers and develop action items and plans for the elimination of those barriers.

ACRONYMS AND ABBREVIATIONS

ADR	Alternative Dispute Resolution
AJ	Administrative Judge
CLF	Civilian Labor Force
CRP	Collaborative Resolution Program
DoD	Department of Defense
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
EEOPD	Equal Employment Opportunity Programs Division
FAD	Final Agency Decision
FMS	Financial Management Service
FY	Fiscal Year
HR	Human Resource(s)
MD	Management Directive
MIFFS	Minority Institute Faculty Fellows
NAFEO	National Association for Equal Opportunity in Higher Education
No FEAR Act	Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002
OPM	Office of Personnel Management
OSD	Office of the Secretary of Defense
RNO	Race and National Origin
DLA	Defense Logistics Agency

APPENDIX A

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APPENDIX B

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APPENDIX B

DLA DISCIPLINARY POLICY

MAINTAINING DISCIPLINE

- 1.0 Purpose
- 2.0 Intent
- 3.0 Policy
- 4.0 Process
 - 4.1 Process Inputs
 - 4.2 Sub Processes
 - 4.3 Process Mechanisms
 - 4.4 Process Controls
 - 4.5 Process Flowchart
 - 4.6 Sub Process, Description, and Responsibilities
- 5.0 Additional Information
- 6.0 Competencies / Certifications
- 7.0 Activity Based Costing /Reporting Codes
- 8.0 Point of Contact
- 9.0 Authentication

1.0 PURPOSE, APPLICABILITY, SCOPE AND EFFECTIVE DATE

1.1. This Process Chapter is authorized under sub-paragraph E2.1.1.16. of Enclosure 2 to Department of Defense (DOD) Directive 5105.22, dated December 6, 1988.

1.1.1. This Process Chapter supersedes Defense Logistics Agency (DLA) Regulation 1406.1, dated April 26, 1990.

1.1.2. This Process Chapter applies to all competitive and excepted service employees of Headquarters (HQ) DLA and DLA Field Activities (DLA FA) and all other Federal activities serviced by a DLA Customer Support Center according to the terms of the applicable servicing support agreement. This chapter does not cover Senior Executive Service (SES) members. Separation of probationary employees or employees serving a trial period is not covered by this chapter. If there is an applicable bargaining unit agreement, and a conflict arises between this chapter and the agreement, the provisions of the agreement prevail.

1.1.3. This Process Chapter establishes and implements policies, processes and procedures necessary to the effective, efficient, and economical conduct of official Agency business.

1.1.4. Effective date: October 17, 2003

2.0 INTENT

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2.1. DLA maintains discipline of its civilian employees through good supervision and personnel management practices. Our customers benefit by being serviced by employees who are self-disciplined and sustained by a firm and just leadership that practices fair and equitable treatment of all employees.

2.2. The outputs of this process are motivated employees who conform to acceptable standards of conduct.

2.3. The focus is on the strategic management of human capital, thereby facilitating the Agency's ability to provide the RIGHT ITEM, RIGHT TIME, RIGHT PLACE and RIGHT PRICE.

2.3.1. There is no metric for this process.

2.3.2. There are no defined goals for this process. Maintaining Discipline can be linked to the DLA Strategic Plan, 2002-2007, goal of ensuring our workforce is enabled to deliver and empowered to deliver and sustain logistics excellence.

3.0 POLICY

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3.1. It is DLA policy that supervisory and management officials initiate disciplinary action for just cause and primarily for the purpose of correcting the offending employee. No action shall be initiated until an examination of the facts and circumstances has been made. Where an offense is minor and correction can be accomplished through counseling, closer supervision, or an informal disciplinary measure, formal disciplinary action need not be taken.

4.0 PROCESS AND RESPONSIBILITIES

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4.0.1. The Director, Human Resources (J-1) will provide broad policy guidance on employee conduct and disciplinary matters.

4.0.2. The servicing Customer Service Office staff will provide technical advice and assistance on employee conduct and disciplinary matters.

4.0.3. The Heads of the DLA FA will implement this chapter and assure that supervisors are familiar with and properly carry out their responsibilities as outlined in this chapter.

4.0.4. The servicing team of the appropriate Customer Support Office is responsible for advising and assisting management in disciplinary matters. It must also ensure that management informs employees against whom disciplinary actions have been proposed or taken of such matters as the right to reply, use of a reasonable amount of official time to prepare and present a reply, and appeal or grievance rights.

4.1 Process Inputs

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4.1.1. When misconduct occurs for which disciplinary action is appropriate, all of the pertinent facts and circumstances of the situation, including the employee's account of the matter, should be carefully evaluated. A disciplinary action is appropriate only when an offense has occurred for which the employee is responsible.

4.1.2. Disciplinary actions should be initiated as soon as feasible after the facts and circumstances of the offense have been evaluated and indicate that an action is appropriate. If there is likely to be a significant delay in making a determination whether or not to take an action, the concerned employee should be advised that action is being considered and he/she will be informed of management's determination as soon as possible.

4.1.3. In determining to take a disciplinary action against an employee, management must prove by a preponderance of the evidence that the employee is guilty of the offense and that the action taken against the employee is a reasonable exercise of management authority and (for suspensions, demotions, and removals) will promote the efficiency of the service.

4.1.4. The fact that the employee has done something wrong does not in and of itself mean there has been

an actionable breach of discipline. For a disciplinary action to be appropriate there must be a nexus between the offense and the efficiency of the service. Management must be prepared to demonstrate this nexus when taking a disciplinary action.

4.1.5. All disciplinary action letters must be reviewed by the servicing Customer Support Office before they are issued to assure that there has been an adequate inquiry into the incident that forms the basis for the action and that actions fully conform to regulatory requirements. The servicing Customer Support Office must also assure that disciplinary actions and attendant matters meet negotiated labor agreement provisions, where applicable.

4.1.6. An employee confronted by management with a potential disciplinary action may voluntarily choose to accept a demotion, reassignment, or retirement in lieu of a disciplinary action. Employees are free to initiate or request such actions at any time. However, in the context of a potential disciplinary action, a resignation, optional retirement, or demotion at an employee's request is involuntary and is therefore an adverse action if it is obtained by coercion, duress, time pressure, intimidation, or deception. An action requested by an employee under this circumstance is voluntary only if the employee has freedom of choice, a reasonable period of time in which to make that choice, and the right to set the effective date. In discussing such "voluntary" actions by employees, management must make it clear that the decision by the employee is entirely at his/her discretion.

4.1.7. If management decides to offer an abeyance agreement or a last chance agreement to an employee, the agreement should contain: a specific time period during which the employee must maintain good performance or conduct; a clear statement of the requirements for the employee, including (if applicable) satisfactory participation in a rehabilitative program, and a description of the employee's behavior that will indicate compliance or failure to comply with the agreement; and a statement of what will result if the employee either fails to comply during the period or satisfactorily complete the period.

4.1.8. Special counseling through the Employee Assistance Program (EAP) helps employees whose conduct or performance may be adversely affected by alcohol, drugs, or behavioral or emotional problems. When a supervisor recognizes the possible existence of such a problem, or is so informed by an employee, whether or not in connection with a proposed or possible disciplinary action, the services of EAP should be offered to the employee through referral.

4.1.9. A Notification of Personnel Action (Standard Form 50) is permanently maintained on the right side of the employee's Official Personnel Folder (OPF) to document suspensions, demotions, and removals. Reprimands should be filed in the employee's OPF only for the time period specified in the reprimand letter, not to exceed two years. Each servicing Customer Support Office will maintain a case file of all formal disciplinary actions, to include at a minimum, copies of the notice of proposed action, the answer of the employee if written, a summary thereof if made orally, the notice of decision and reasons therefore, and any order effecting the action, together with supporting material. This case file will be maintained in accordance with DLA One Book Chapter – Personnel Record Keeping. At the end of the time period specified for retention, these records will be destroyed. In removal cases, the OPF is normally retained when an appeal, or negotiated grievance, is filed until the matter is finally resolved. The OPF is then forwarded to the National Records Center in accordance with the procedures described in the Office of Personnel Management's Guide to Personnel Recordkeeping.

4.2 Sub Processes

4.2.1. Informal Disciplinary Actions

4.2.1.1. Oral Counseling

4.2.1.2. Oral Admonishment

4.2.1.3. Letter of Instruction

- 4.2.1.4. Letter of Warning
- 4.2.2. Formal Disciplinary Actions
 - 4.2.2.1. Letter of Discipline
 - 4.2.2.2. Reprimand
 - 4.2.2.3. Suspension
 - 4.2.2.4. Demotion
 - 4.2.2.5. Removal

4.3 Process Mechanisms

- 4.3.1. Memorandum documenting employee counseling
- 4.3.2. Memorandum documenting employee admonishment
- 4.3.3. Letter of instruction
- 4.3.4. Letter of warning
- 4.3.5. Letter of discipline
- 4.3.6. Letter of reprimand
- 4.3.7. Notice of proposed suspension
- 4.3.8. Notice of decision-suspension
- 4.3.9. Notice of proposed demotion
- 4.3.10. Notice of decision-demotion
- 4.3.11. Notice of proposed removal
- 4.3.12. Notice of decision-removal
- 4.3.13. Request for personnel action-suspension
- 4.3.14. Request for personnel action-demotion
- 4.3.15. Request for personnel action-removal
- 4.3.16. Notification of personnel action-suspension
- 4.3.17. Notification of personnel action-demotion
- 4.3.18. Notification of personnel action-removal

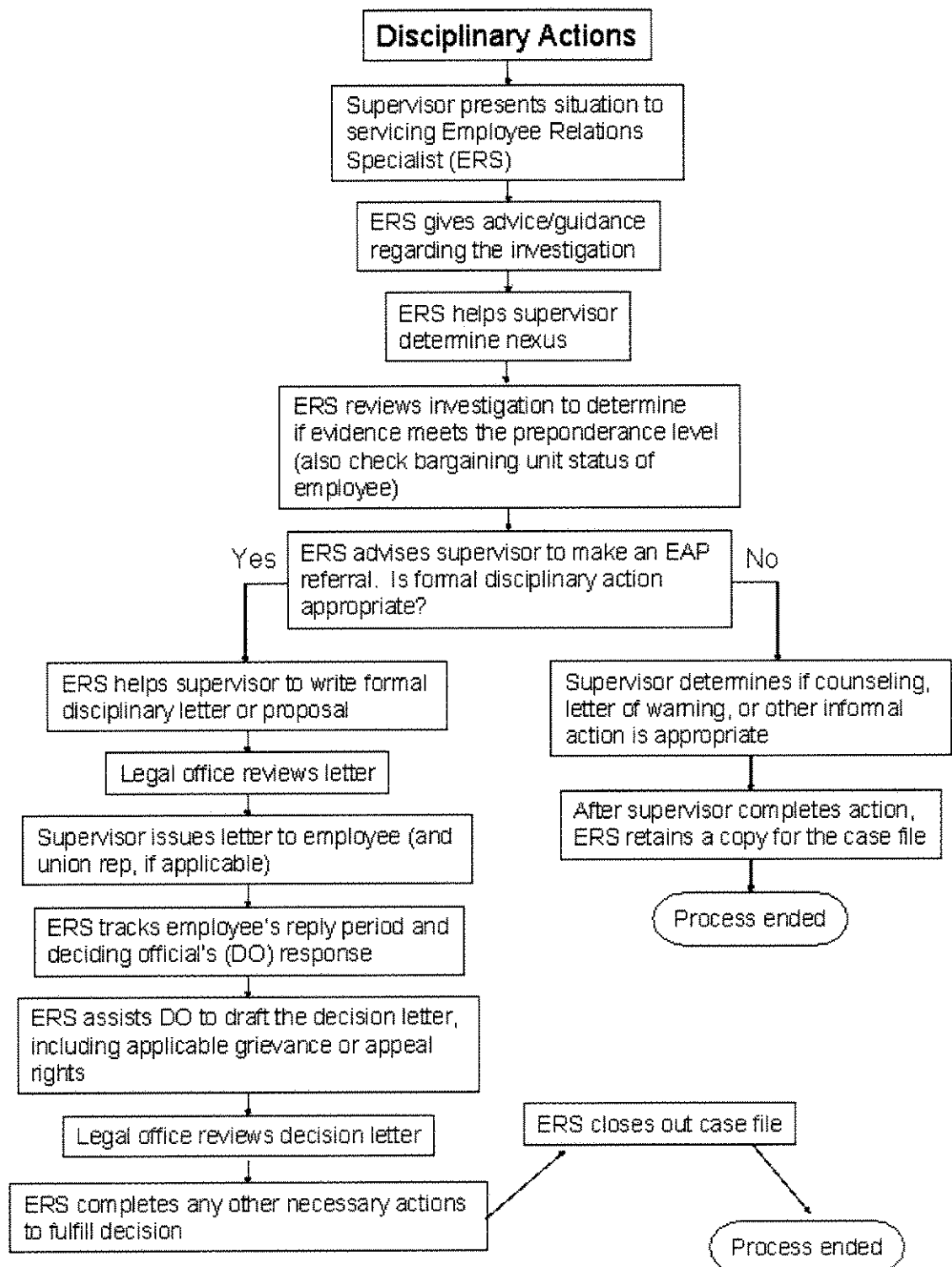
4.4 Process Controls

- 4.4.1. 5 CFR 752 <http://www.access.gpo.gov/nara/cfr/waisidx/5cfr752.html>

4.4.2. Appropriate Bargaining Unit Agreements

4.4.3. Guide To Processing Personnel Actions <http://www.opm.gov/feddata/gppa/gppa.asp>

4.5 Process Flowchart



4.6 Sub-Process, Descriptions, and Responsibilities

4.6.1. Informal Disciplinary Actions

4.6.1.1. Oral Counseling - An oral counseling is the first step in handling minor errors that can be resolved by instructing the employee in the proper process or procedure. It is highly recommended that supervisors document the oral counseling, together with the reasons and corrective action discussed, in a memorandum for the record (MFR) and provide a copy of the MFR to the employee.

4.6.1.2. Oral admonishment - An oral admonishment is the first step in handling minor rule infractions and similar discipline problems. The supervisor must document the oral admonishment, together with the reasons and corrective action discussed, in an MFR and provide a copy of the MFR to the employee.

4.6.1.3. Letters of Instruction - Letters to individual employees are sometimes used to document standards of conduct or special work instructions. Letters of this type, as well as those that establish special requirements such as leave approval procedures or warn of potential consequences of certain behavior, are not disciplinary. These letters merely formalize instruction that might otherwise be given orally. Such letters may be referred to in disciplinary actions to substantiate that employees were notified of proper standards of conduct or special work instructions.

4.6.1.4. Letters of Warning - A written letter issued by a supervisor to an employee concerning unacceptable conduct which warns the employee that formal disciplinary action may be imposed if the conduct does not improve. Such letters may be referred to in formal disciplinary actions to substantiate that employees were notified previously of both their unacceptable conduct and the supervisor's expectations for improved conduct.

4.6.2. Formal Disciplinary Actions

4.6.2.1. Letters of Discipline – Letters of Discipline may be used in lieu of letters of reprimand and suspensions of 14 calendar days or less. The use of letters of discipline is described in section 5.4 of this process.

4.6.2.2. Reprimand. A written disciplinary action issued by a supervisor to an employee based on specific unacceptable conduct. Unless a different procedure is outlined in the applicable bargaining unit agreement, a one-step reprimand will be used.

4.6.2.2.1. Procedure. The one-step procedure entails issuance of a letter of reprimand after the supervisor has investigated the incident, discussed it with the employee, and determined, in consultation with the servicing Customer Support Office, that the incident warrants formal disciplinary action. The letter of reprimand will be effective immediately, and will cite the specific charge(s) and a reasonably detailed account of the offense(s) including such facts as time, date, names, place, and circumstances. As appropriate, the reprimand will include a statement of any past disciplinary actions taken which were considered as supporting the decided penalty. The effective date of a reprimand can be no sooner than the day it is received by the employee, or if mailed, five (5) mail delivery days after it is mailed. The letter of reprimand must inform the employee that the letter will be retained in his/her Official Personnel Folder (OPF) for a period of time, not to exceed two (2) years. Letters of Reprimand will be removed from an employee's OPF when the employee separates from the Agency.

4.6.2.2.2. Delivery of Notice. Delivery of all disciplinary actions is very important. If practical, it should be done in person and in private. The employee should be asked to sign and date the file copy to acknowledge receipt. If the employee refuses, the supervisor delivering the notice should note this fact on the file copy of the notice together with his/her name and the date. If personal delivery is not practical, delivery by both an overnight carrier capable of tracking delivery and first-class mail is the preferred method.

4.6.2.2.3. Grievance Rights. Employees have the right to grieve a letter of reprimand, in accordance with the applicable grievance procedure. The reprimand letter must inform the employee of this right, the applicable procedure and the submission deadline the employee must use to file their grievance.

4.6.2.3. Suspension. The suspension penalty may be used for significant misconduct and repeated infractions of a lesser nature. A Notification of Personnel Action (SF-50) documenting suspensions becomes a permanent record in the OPF. A suspension action requires a notice of proposed suspension, specific and detailed claims, the right to review the material used to construct the action, the right to reply personally and in writing, and a written decision letter. Except in highly unusual circumstances, suspensions must be given in consecutive days. Periods of suspension must not be divided by intervening days in a work status in order to avoid processing under 5 CFR 752, subpart C, or to reduce or intensify the effect on the concerned employee.

4.6.2.3.1. Procedure. The authority to initiate disciplinary action should be delegated to the lowest practical level of supervision consistent with good management. Normally, this authority will be placed at the first level of supervision where the full range of personnel management responsibility is exercised. Final decisions to suspend, to demote, or to remove employees will be made by a supervisor one or more levels higher than the supervisor who proposed the action. The supervisor will work with the servicing Customer Service Office, Employee and Labor Relations staff, to construct the action. The claims, specifications, determination as to how the proposed penalty was derived (analysis of the Douglas Factors, see section 5.2.2.), and the employee's rights will be detailed in the proposal notice (see sections 4.6.2.3.2, 4.6.2.3.3, and 4.6.2.3.5.) The employee may reply to the deciding official who is named in the proposal notice (see section 4.6.2.3.3.). After the reply period has expired, the deciding official will provide a written decision letter to the employee. If applicable, the deciding official's decision letter will detail the employee's grievance or appeal rights (see section 4.6.2.3.9).

4.6.2.3.2. Material Relied Upon to Support the Charge. Claims of misconduct or delinquency are sometimes based in whole or in part upon documentary evidence such as arrest records, statements of witnesses, investigative reports, production records, etc. Since all supporting documentation must be open to the concerned employee and his/her representative, material that cannot be disclosed cannot be used to support the charge. When documents and records are used to support the charge, the employee must be informed in the notice of proposed action that these will be made available upon request.

4.6.2.3.3. Notice and Reply Periods. The purpose of the reply period is to allow employees to gather and present facts and argument in opposition to proposed actions and must allow them the opportunity to request and be granted extensions when warranted. The reply period of a proposed action will begin the day after the action is received by the employee or five (5) mail delivery days after mailing by first-class mail, whichever is sooner. For proposed suspensions of 14 days or less, the employee will have 20 days advance notice of the action and 14 days to reply. For proposed suspensions of more than 14 calendar days, the employee will have 30 days advance notice of the action and 20 days to reply.

4.6.2.3.4. Delivery of Notice. See section 4.6.2.2.2 above.

4.6.2.3.5. Employees have the right to be represented by an attorney or other representative. Management may disallow the employee representative if the activities of the individual as a representative could cause a conflict of interest or position; release of an employee from official duties to serve as a representative would give rise to unreasonable costs to the Government; or priority work assignments of the employee preclude release to serve as a representative. The disallowance of a representative must be in writing and state fully the reasons for the decision. Employees have the right to challenge the disallowance according to the terms of their negotiated grievance procedure for bargaining unit employees or the administrative grievance procedure for non-bargaining unit employees.

4.6.2.3.6. Status During Notice Period. An employee whose suspension (including indefinite suspension) has been proposed will ordinarily remain in a duty status in his/her regular position during the advance notice period. However, in those rare circumstances where the employee's continued presence in the work place during the notice period would pose a threat to co-workers, result in potential loss of or damage to Government property, or otherwise jeopardize legitimate Government interests, the supervisor may consider the following alternatives: assign the employee to other duties where there would be no threat to safety, mission, or property; allow the employee to request leave (annual, sick or leave without pay), or

charge the absence to absence without leave (AWOL) if the employee is absent without having requested leave; curtail the notice period when the "crime provision" (5 US Code 7513) can be invoked; or if none of these alternatives are appropriate to the situation, the employee may be placed in a paid, non-duty status until the effective date of a decision.

4.6.2.3.7 Replies. Employees have the right to reply both personally and in writing to disciplinary actions. Replies are to be made to a person with authority to make a final decision on the proposed action. If the employee wishes consideration of any medical condition that may bear upon the delinquency or misconduct, he/she should make this clear and submit such supporting medical documentation of the condition as is available. Any medical information submitted will be considered under the criteria of 5 CFR Part 339.

4.6.2.3.8. *Setting Effective Dates of Actions.* Only full calendar days will be counted in setting the last day of a reply period, notice period, or the effective date of an action. The reply period will start with the day after the day the employee receives the proposed notice. The effective date of a decision to suspend will not be earlier than the day after the last day of the notice period. No decision on whether or not to take an action can be made until the employee has had time to reply and the reply has been carefully considered. Therefore, no specific effective date should be set in a proposed notice of action.

4.6.2.3.9. *Grievance and Appeal Rights.* All letters of decision must contain information on the employee's rights to grieve or appeal the action as appropriate. Letters of decision on suspensions of more than 14 days, are appealable to Merit Systems Protection Board (MSPB), and the decision letter must be accompanied by a copy of the board's appeal form (MSPB Form 185, U.S. Systems Protection Board Appeal Form, <http://www.mspb.gov/foia/forms-pubs/mspbappealform.htm>) and the decision letter must also meet all requirements stated in 5 CFR Part 1201.21. Bargaining unit employees covered by a negotiated agreement may, at the discretion of the employee, grieve through the negotiated grievance process or appeal to the MSPB, but not both. Suspensions of 14 calendar days or less may be grieved using either the administrative or the applicable negotiated grievance procedure.

4.6.2.4. *Demotion.* In those rare instances where an employee's misconduct or delinquency is so serious and is of such a nature that it destroys management's confidence in the employee's continued ability to properly discharge assigned duties and responsibilities, a demotion (change to lower grade) action may be proposed. The offense should be such that a lesser corrective action is inappropriate. Inasmuch as a decided demotion action entails a change of position and duties, employees must not be allowed or expected to continue to perform the work of the former position or grade level. Care must be exercised to assure the integrity of the position classification system is preserved.

4.6.2.4.1 Procedure. The procedures described in section 4.6.2.3.1 apply.

4.6.2.4.2. Material Relied Upon to Support the Charge. The information described in section 4.6.2.3.2. applies.

4.6.2.4.3. Notice and Reply Periods. The information listed in section 4.6.2.3.3 applies. The time period listed for suspension proposals for more than 14 days, apply to demotions.

4.6.2.4.4. Delivery of Notice. The information described in section 4.6.2.2.2 applies.

4.6.2.4.5. Employee Representation. The information described in section 4.6.2.3.5 applies.

4.6.2.4.6. Status During Notice Period. The information described in section 4.6.2.3.6 applies.

4.6.2.4.7. Employee Replies. The information described in section 4.6.2.3.7 applies.

4.6.2.4.8. Setting Effective Dates of Actions. The information described in section 4.6.2.3.8 applies.

4.6.2.4.9. Grievance and Appeal Rights. The information described in section 4.6.2.3.9 applies.

4.6.2.5. Removal. A removal is generally an action of last resort. It is usually taken when corrective action has been tried without result, or the situation is of such gravity as to indicate that correction and retention of the employee is inappropriate. Ordinarily, before it is proposed to remove an employee, progressive disciplinary measures will have been taken to attempt correction. It must be determined that the removal is warranted to promote the efficiency of the service.

4.6.2.5.1 Procedure. The procedures described in section 4.6.2.3.1 apply. The Directors of the Customer Support Offices, or their designees, may initiate a removal action in certain cases that do not directly involve a breach of the supervisor-subordinate relationship.

4.6.2.5.2. Material Relied Upon to Support the Charge. The information described in section 4.6.2.3.2 applies.

4.6.2.5.3. Notice and Reply Periods. The information listed in section 4.6.2.3.3 applies. The time period listed for suspension proposals for more than 14 days applies to removals. The 30-day advance notice of a removal is not required when there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed (5 U.S. Code 7513). In this circumstance, a curtailed reply and notice period of not less than 7 calendar days may be imposed. When circumstances require immediate action, the employee may be placed in a non-duty status with pay for the time, not to exceed 10 calendar days, necessary to effect the action. When the crime provision is used, the notice of proposed action must inform the employee of that and explain that he/she is being placed in a non-duty status with pay during the notice period. This provision may be invoked even in the absence of judicial action if there is reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment may be imposed.

4.6.2.5.4. Delivery of Notice. The information described in section 4.6.2.2.2 applies.

4.6.2.5.5. Employee Representation. The information described in section 4.6.2.3.5 applies.

4.6.2.5.6 Status During Notice Period. The information described in section 4.6.2.3.6 applies.

4.6.2.5.7. Employee Replies. The information described in section 4.6.2.3.7 applies.

4.6.2.5.8. Setting Effective Dates of Actions. The information described in section 4.6.2.3.8 applies.

4.6.2.5.9. Grievance and Appeal Rights. All decision letters to remove an employee from Federal service must contain information on the employee's rights to grieve or appeal the action as appropriate. Letters of decision to remove are appealable to Merit Systems Protection Board (MSPB), and the decision letter must be accompanied by a copy of the board's appeal form (MSPB Form 185, U.S. Merit Systems Protection Board Appeal Form, <http://www.mspb.gov/foia/forms-pubs/mspbappealform.htm>). The decision letter must also meet all requirements stated in 5 CFR Part 1201.21. Bargaining unit employees covered by a negotiated agreement may, at the discretion of the employee, either grieve through the negotiated grievance process or appeal to the MSPB, but not both.

5.0 ADDITIONAL INFORMATION

5.1. Definitions:

5.1.1. Day. Calendar day.

5.1.2. Demotion. A reduction in grade or pay and position change for serious delinquency or misconduct where other, lesser corrective action would be inappropriate.

5.1.3. Disciplinary Action. A formal written action taken by management for delinquency or misconduct.

The action will range from a letter of reprimand through removal from the Federal Service. It does not include an action based on performance deficiencies.

5.1.4. Harmful Error. An error by management in the application of its procedures which, if corrected or alleviated, might have resulted in a different conclusion or action by management.

5.1.5. Informal Action. An action taken by management to instruct an employee on proper behavior or procedure or to correct minor behavioral problems. Oral admonishments, counseling, and letters of warning or instruction are types of informal actions.

5.1.6. Nexus. A reasonable connection or factual relationship between the reason(s) for the disciplinary action and the efficiency of the Federal Service.

5.1.7. Preponderance of Evidence. That degree of relevant evidence which a reasonable individual, considering the record as a whole, might accept as sufficient to support a conclusion that the matter asserted is more likely to be true than not true.

5.1.8. Removal. A separation from employment for reasons of misconduct, delinquency, or for other cause that is personal to the employee.

5.1.9. Reprimand. A formal written action that is temporarily recorded in the employee's Official Personnel Folder (OPF). This type of action is taken when the seriousness of the misconduct or breach of regulation indicates that informal discipline is inappropriate.

5.1.10. Suspension. A temporary enforced absence from duty in a non-pay status imposed as a corrective penalty for serious misconduct or repeated lesser infractions.

5.2. Factors Supervisors Should Consider In Proposing a Disciplinary Action:

5.2.1. Determining the appropriate penalty requires the same degree of care as is used in the initial inquiry into the offense. The Table of Offenses and Penalties (section 5.3) is intended as a suggested guide for the selection of penalties for certain offenses. The decision on what penalty is appropriate for a particular offense should be made considering the following:

5.2.1.1. The Douglas factors, outlined in section 5.2.2.

5.2.1.2. A determination as to an appropriate penalty must not be made arbitrarily and, except as prescribed by law, there must be no requirement whereby a specific penalty is automatically applied to a specific offense. With the exception of removal from the Federal Service, penalties are intended to be corrective in nature. Penalties should be in keeping with the policy of constructive discipline.

5.2.2. The Merit Systems Protection Board (MSPB) has enunciated 12 factors (Douglas v. Veterans Administration, ATO75299006, 10 April 1981) that should be considered in selecting an appropriate disciplinary penalty. Not all factors are relevant in every case, and not all are of equal weight in making a decision. These factors are:

5.2.2.1. The nature and seriousness of the offense and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional, technical, or inadvertent, or was committed maliciously or for gain or was frequently repeated.

5.2.2.2. The employee's job level and type of employment including supervisory or fiduciary role, contacts with the public, and the prominence of the position.

5.2.2.3. The employee's past disciplinary record.

5.2.2.4. The employee's past work record including length of service, performance on the job, ability to get

along with fellow workers, and dependability.

5.2.2.5. The effect of the offense upon the employee's ability to perform at a satisfactory level, and its effect upon the supervisor's confidence in the employee's ability to perform assigned duties.

5.2.2.6. The consistency of the penalty with those imposed upon other employees for the same or similar offenses *in like or similar circumstances*.

5.2.2.7. The consistency of the penalty with the Table of Offenses and Penalties (section 5.3. of this process)

5.2.2.8. The notoriety of the offense, or its impact upon the reputation of DLA.

5.2.2.9. The clarity with which the employee was on notice of any rules that were violated in committing the offense or had been warned about the conduct in question.

5.2.2.10. The potential for the employee's rehabilitation.

5.2.2.11. The mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, bad faith, malice, or provocation on the part of others involved in the matter.

5.2.2.12. The adequacy and effectiveness of alternative sanctions (penalties) to deter such conduct in the future by the employee or others.

5.3 Table of Offenses and Recommended Penalties

Offense (Cause of Action)	Penalties		
	First Offense	Second Offense	Third Offense
5.3.1. Absence Without Leave (AWOL) from the regularly scheduled tour of duty or any absence from management-directed additional hours of duty, includes leaving the worksite without permission.	Reprimand to 14-day Suspension	1- to 14-day Suspension	10-day Suspension to Removal
5.3.2. Failure to request leave in accordance with established procedures.	Reprimand to 5-day Suspension	1- to 5-day Suspension	5-day Suspension to Removal
5.3.3. Repeated tardiness, repeated delays in returning to work from lunch or breaks.	Reprimand to 1-day Suspension	1-day to 5-day Suspension	5-day Suspension to Removal
5.3.4. Insubordination, defiance of or contemptuous behavior toward constituted authority, refusal to carry	Reprimand to Removal	1-day Suspension to Removal	5-day Suspension to Removal

out proper orders, disregard of regulation or directive.			
5.3.5. Delay or failure to carry out assigned duties or instructions in a reasonable time.	Reprimand to 3-day Suspension	1- to 10-day Suspension	5-day Suspension to Removal
5.3.6. Indecent conduct on Government premises or during work hours.	Reprimand to Removal	1-day Suspension to Removal	Removal
5.3.7. Careless workmanship, negligence, concealing defective work, concealing, losing, or destroying work documents.	Reprimand to 10-day Suspension	1- to 10-day Suspension	5-day Suspension to Removal
5.3.8. Failure to honor valid debts or other legal financial obligations.	Reprimand	1- to 5-day Suspension	5-day Suspension to Removal
5.3.9. Misuse of the Government Travel Charge Card (e.g. use for unauthorized personal expenses, failure to pay charge card bill or pay such bill in a timely manner).	Reprimand to Removal	5-day Suspension to Removal	10-day Suspension to Removal
5.3.10. Unauthorized use of or failure to appropriately control use Government Purchase Charge Card as a cardholder, approving official responsible for use or oversight of the Card.	Reprimand to Removal	14-day Suspension to Removal	30-day Suspension to Removal
5.3.11. Breach of safety regulations and practice, failure to use protective clothing or equipment.	Reprimand to Removal	5-day Suspension to Removal	10-day Suspension to Removal
5.3.12. Loss of, damage to, unauthorized use of, destruction of Government property.	Reprimand to 10-day Suspension	5-day Suspension to Removal	10-day Suspension to Removal
5.3.13. Theft (actual or attempted), unauthorized possession of Government property	Reprimand to Removal	5-day Suspension to Removal	10-day Suspension to Removal
5.3.14. Loafing or sleeping on duty.	Reprimand	1- to 5-day Suspension	5-day Suspension to Removal
5.3.14.1. Where safety of persons or property is not endangered.		5-day Suspension to Removal	
5.3.14.2. Where safety of persons or property is endangered.	Reprimand to Removal		10-day Suspension to Removal
5.3.15. Fighting, threatening or inflicting bodily harm, physical resistance to proper authority.	5-day Suspension to Removal	10-day Suspension to Removal	14-day Suspension to Removal

5.3.16. Quarreling or inciting to quarrel, use of abusive or offensive language, horseplay which interferes with work, disorderly conduct, offensive language to or abuse of subordinates.	Reprimand to 5-day Suspension	3-day Suspension to Removal	10-day Suspension to Removal
5.3.17 Rude, discourteous conduct, discourtesy to the public.	Reprimand to 1-day Suspension	1- day to 5-day Suspension	5-day Suspension to Removal
5.3.18 Misrepresentation, falsification, or concealment of a material fact in connection with any official document; falsification, giving false testimony, or withholding material facts or refusal to testify in connection with matters under official investigation, inquiry, or other official proceeding.	Reprimand to Removal	5-day Suspension to Removal	10-day Suspension to Removal
5.3.19 Making false, malicious, or unfounded statements against other employees with disregard for, or intent to damage, their reputation, authority, official standing or position.	Reprimand to Removal	5-day Suspension to Removal	10-day Suspension to Removal
5.3.20. Gambling or betting on Government premises during work hours.	Reprimand to 3-day Suspension	2-day to 5-day Suspension	5-day Suspension to Removal
5.3.21. Organizing, promoting, or assisting in, gambling or betting on Government premises during work hours.	3-day Suspension to Removal	5-day Suspension to Removal	10-day Suspension to Removal
5.3.22. Being on duty drunk or impaired by intoxicants on Government premises as to be unable to properly perform duties, or being a hazard to one's self or to others, driving while intoxicated on a Government reservation, or while driving a Government-owned vehicle.	5-day Suspension to Removal	7-day Suspension to Removal	10-day Suspension to Removal
5.3.23. Reporting for duty under the influence of intoxicants, unauthorized sale or exchange or trade of intoxicants (alcoholic beverages) on Government premises.	5- to 10-day Suspension	7-day Suspension to Removal	10-day Suspension to Removal
5.3.24. Use of an illegal drug, on duty or off duty, positive result in a	Reprimand to Removal	Removal	

required drug test.			
5.3.25. Refusal to participate in required drug test.	5-day Suspension to Removal	Removal	
5.3.26. Unauthorized sale, exchange, trade, or transfer of ownership of marijuana, a narcotic, or dangerous drug on Government premises, or during the work hours of any employee involved.	5-day Suspension to Removal	Removal	
5.3.27. Soliciting gifts, contributions, or personal services from subordinates. Borrowing money from subordinates.	Reprimand to 5-day Suspension	5-day Suspension to Removal	10-day Suspension to Removal
5.3.28. Discrimination, action or inaction based on race, color, religion, sex, national origin, age, or marital status which affects an employee or applicant, making insulting or disparaging racial remarks.	Reprimand to Removal	10-day Suspension to Removal	30-day Suspension to Removal
5.3.29. Sexual harassment.	Reprimand to Removal	10-day Suspension to Removal	30-day Suspension to Removal
5.3.30. Reprisal, restraint, coercion, or interference with an employee for use of a grievance or appeal procedure, or reporting fraud, waste, or abuse; for labor organization affiliation or duties, or for filing a discrimination complaint.	Reprimand to 5-day Suspension	1- to 10-day Suspension	10-day Suspension to Removal
5.3.31. Compromise, unauthorized possession, use, or disclosure of appointment or promotion examination information and materials.	Reprimand to 3-day Suspension	5-day Suspension to Removal	10-day Suspension to Removal
5.3.32. Violation of security regulation requirements.	Reprimand to Removal	5-day Suspension to Removal	10-day Suspension to Removal
5.3.33. Off-duty misconduct which causes an employee to be unable to fulfill his/her duty responsibilities, or seriously reflects upon DLA as the employee's employer.	Reprimand to Removal	5-day Suspension to Removal	10-day Suspension to Removal
5.3.34. Unauthorized use of a Government vehicle for other than	30-day Suspension	Removal	

official purposes.	to Removal		
5.3.35. Offer, solicitation, or acceptance of a gift, gratuity, or thing of monetary value in connection with employee's official capacity.	Reprimand to Removal	10-day Suspension to Removal	Removal
5.3.36. Smoking in an unauthorized location.	Reprimand to 1-day Suspension	1- to 5-day Suspension	5-day Suspension to Removal

5.4. Letters of Discipline

5.4.1. Letters of Discipline may be used as an adjunct to the regular, formal disciplinary process. Management may elect to use a letter of discipline for a particular incident of misconduct. Otherwise, a regular disciplinary action may be used. The use of a letter of discipline for one employee or one incident of misconduct does not obligate management to use them for all such incidents or employees. Management has full discretion to decide when it would be appropriate to use a Letter of Discipline in lieu of a regular disciplinary action.

5.4.2. When it has been determined that an employee has committed an offense for which a formal disciplinary action is appropriate, a Letter of Discipline may be taken in lieu of a letter of reprimand or a suspension from duty and pay of not more than 14 calendar days. Letters of Discipline may not be used in lieu of actions more severe than a 14 calendar day suspension.

5.4.3. Repeated instances of misconduct ordinarily result in progressively more severe disciplinary actions.

5.4.4. Like a reprimand, a Letter of Discipline is effective upon issuance; there is no proposed action letter followed by a decision letter. Therefore, the right to reply to a proposed disciplinary action does not pertain. To avoid taking unwarranted actions, management must make a reasonable inquiry into the facts and circumstances of the incident giving rise to the matter before issuing a Letter of Discipline. Letters of discipline must cite the specific charge(s) and a reasonable account of the offense(s) including such facts as date, place, circumstances, and names of persons involved. As appropriate, Letters of Discipline will include a statement of any past disciplinary actions taken which were considered as supporting the severity of the penalty the Letter of Discipline is taken in lieu of. All Letters of Discipline will identify the formal disciplinary action each is taken in lieu of.

5.4.5. Employees have the right to formally question a Letter of Discipline using the appropriate grievance process (either the DOD grievance process or the negotiated one). Employees must be informed of this right in the letters. Employees receiving such a letter will be asked to sign and date receipt of it on the file copy. This copy will become the copy filed on the temporary side of OPF for the same period of time as a letter of reprimand would be retained. At the expiration of this retention period, the Letter of Discipline will be purged from OPF.

5.4.6. Employees have the right to be represented in preparing and filing a grievance concerning a Letter of Discipline. A reasonable amount of duty time will be allowed for the employee and his/her representative for this purpose. Information on this right will be included in letters of discipline.

6.0 COMPETENCIES / CERTIFICATIONS

N/A

7.0 ACTIVITY BASED COSTING / REPORTING CODES

TBD

8.0 POINT OF CONTACT

8.1. Process Owner (J-13):
Karen Hilliard, J-13
Phone: (703) 767-6412
E-mail: karen.hilliard@dla.mil

9.0 AUTHENTICATION

9.1. BY ORDER OF THE DIRECTOR:

Ella Studer
Director, DLA Enterprise Support
Date: October 17, 2003

APPENDIX C

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Defense Logistics Agency

Equal Employment Opportunity Data Posted Pursuant to Title III of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174

Last Updated: March 6, 2008

Data provided by iComplaints. N/A means Data Not Available

Complaint Activity (29 CFR 1614.704(a), (b), and (c))	Comparative Data (29 CFR 1614.705)					1 st Qtr FY 2008 1/10/07 until 12/31/07
	Previous Fiscal Year Data					
	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	
Number of Complaints Filed	167	140	134	111	94	22
Number of Complainants	160	135	118	100	91	22
Repeat Filers	7	7	8	9	3	0
Complaints by Basis (29 CFR 1614.704(d))	Comparative Data (29 CFR 1614.705)					1 st Qtr FY 2008 1/10/07 until 12/31/07
	Previous Fiscal Year Data					
	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>						
Race	8	21	33	51	24	5
Color	3	7	15	13	10	0
Religion	0	1	3	2	2	0
Reprisal	8	23	39	40	28	8
Sex	6	23	27	44	45	8
National Origin	2	5	6	6	8	0
Equal Pay Act	1	2	1	1	0	7
Age	10	14	28	37	38	5
Disability	2	14	16	33	22	0
Non-EEO	0	0	0	0	0	0
Complaints by Issue (29 CFR 1614.704(e))	Comparative Data (29 CFR 1614.705)					1 st Qtr FY 2008 1/10/07 until 12/31/07
	Previous Fiscal Year Data					
	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	
<i>Note: Complaints can be filed alleging multiple issues. The sum of the issues may not equal total complaints filed.</i>						
Appointment/Hire	0	1	1	2	1	0
Assignment of Duties	2	2	8	8	7	0
Awards	0	1	5	4	5	0
Conversion to Full Time	0	0	0	0	0	0

Disciplinary Action						
Demotion	0	0	0	0	1	0
Reprimand	0	0	1	2	4	0
Suspension	0	0	9	7	5	0
Removal	0	1	1	2	3	2
Other	0	0	2	5	5	1
Duty Hours	0	1	3	0	1	0
Evaluation/Appraisal	1	0	0	2	5	0
Examination/Test	0	0	1	0	0	0
Harassment						
Non-Sexual	0	12	20	18	23	2
Sexual	0	2	1	3	2	1
Medical Examination	0	0	0	0	1	0
Pay (Including Overtime)	1	3	2	1	0	0
Promotion/Non-Selection	9	18	20	45	30	5
Reassignment						
Denied	0	0	1	0	1	0
Directed	2	2	0	3	6	4
Reasonable Accommodation	2	2	7	6	0	1
Reinstatement	0	0	0	0	0	0
Retirement	0	2	1	2	5	0
Termination	0	3	2	3	1	3
Terms/Conditions of Employment	0	0	4	4	6	0
Time and Attendance	0	3	4	7	5	0
Training	3	0	4	1	0	1
Other	1	6	14	21	1	2
Processing Time (29 CFR 1614.704(f))	Comparative Data (29 CFR 1614.705)					1st Qtr FY 2008 1/10/07 until 12/31/07
<i>The average length of time it has taken an agency to complete, respectively, investigation and final action for:</i>	Previous Fiscal Year Data					
	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	
Complaints pending (for any length of time) during the fiscal year (1614.704(f)(1))						
Average number of days in investigation stage	289.00	294.33	308.92	274.02	256.93	228.67
Average number of days in final action stage	586.52	446.25	298.82	230.23	212.16	263.36
Complaints pending (for any length of time) during the fiscal year where a hearing was requested (1614.704(f)(3))						
Average number of days in investigation stage	482.00	197.00	298.23	309.89	398.50	NA

Average number of days in final action stage										778.00	648.85	438.31	526.78	316.22	NA						
Complaints pending (for any length of time) during the fiscal year where a hearing was not requested (1614.704(f)(2))																					
Average number of days in investigation stage										265.67	343.00	312.68	267.56	252.64	NA						
Average number of days in final action stage										406.18	884.00	199.50	438.31	349.20	228.67						
Complaints Dismissed by Agency (29 CFR 1614.704(g))										Comparative Data (29 CFR 1614.705)										1 st Qtr FY 2008 1/10/07 until 12/31/07	
										Previous Fiscal Year Data											
										FY 2003		FY 2004		FY 2005		FY 2006		FY 2007			
Total complaints dismissed by agency under 1614.107(a) (prior to a request for a hearing)										25	35	39	11	19	5						
Average days pending prior to dismissal										76.28	236.63	544.69	92.45	126.53	78						
Complaints Withdrawn by Complainants (29 CFR 1614.704(h))																					
Total complaints withdrawn by complainants										12	22	22	8	6	5						
Total Final Actions Involving a Finding of Discrimination (29 CFR 1614.704(i))										Comparative Data (29 CFR 1614.705)										1 st Qtr FY 2008 1/10/07 until 12/31/07	
										Previous Fiscal Year Data											
										FY 2003		FY 2004		FY 2005		FY 2006		FY 2007			
										#	%	#	%	#	%	#	%	#	%		#
Total number of findings										0		0		0		1		1		NA	
Total without a hearing										0	0	0	0	0	0	1	100	1	100	NA	
Total with a hearing										0	0	0	0	0	0	0	0	0	0	NA	
Findings of Discrimination Rendered by Basis (29 CFR 1614.704 (j))										Comparative Data (29 CFR 1614.705)										1 st Qtr FY 2008 1/10/07 until 12/31/07	
										Previous Fiscal Year Data											
										FY 2003		FY 2004		FY 2005		FY 2006		FY 2007			
Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.										#	%	#	%	#	%	#	%	#	%	#	%
Total number of findings										0		0		0		1		1		0	
Race										0	0	0	0	0	0	0	0	0	0	0	0
Color										0	0	0	0	0	0	0	0	0	0	0	0
Religion										0	0	0	0	0	0	0	0	0	0	0	0
Reprisal										0	0	0	0	0	0	0	0	0	0	0	0
Sex										0	0	0	0	0	0	0	0	1	100	0	0
National Origin										0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act										0	0	0	0	0	0	0	0	0	0	0	0
Age										0	0	0	0	0	0	0	0	0	0	0	0
Disability										0	0	0	0	0	0	1	100	0	0	0	0
Non EEO										0	0	0	0	0	0	0	0	0	0	0	0
Findings after a hearing										0		0		0		0		0		0	
Race										0	0	0	0	0	0	0	0	0	0	0	0

Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	0	0	0	0	0	0	0	0	0	0
Sex	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	0	0	0
Disability	0	0	0	0	0	0	0	0	0	0	0	0
Non EEO	0	0	0	0	0	0	0	0	0	0	0	0
Findings without a hearing	0		0		0		1		0		0	
Race	0	0	0	0	0	0	0	0	0	0	0	0
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	0	0	0	0	0	0	0	0	0	0
Sex	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	0	0	0
Disability	0	0	0	0	0	0	1	100	0	0	0	0
Non EEO	0	0	0	0	0	0	0	0	0	0	0	0
Findings of Discrimination Rendered by Issue (29 CFR 1614.704 (k))	Comparative Data (29 CFR 1614.705)										1st Qtr FY 2008	
Note: Complaints can be filed alleging multiple issues. The sum of the issues may not equal total complaints and findings.	Previous Fiscal Year Data										1/10/07 until 12/31/07	
	FY 2003		FY 2004		FY 2005		FY 2006		FY 2007			
	#	%	#	%	#	%	#	%	#	%	#	%
Total number of findings	0		0		0		1		1		0	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0

Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Evaluation/Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment	0	0	0	0	0	0	0	0	0	0	0	0
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay Including Overtime	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	1	100	0	0
Reassignment	0	0	0	0	0	0	0	0	0	0	0	0
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0	0	0	0	1	100	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Findings after a hearing	0		0		0		0		0		0	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action	0	0	0	0	0	0	0	0	0	0	0	0
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Evaluation/Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment	0	0	0	0	0	0	0	0	0	0	0	0

Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay Including Overtime	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment	0	0	0	0	0	0	0	0	0	0	0	0
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Findings without a hearing	0		0		0		0		0		1	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action	0	0	0	0	0	0	0	0	0	0	0	0
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Evaluation/Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment	0	0	0	0	0	0	0	0	0	0	0	0
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay Including Overtime	0	0	0	0	0	0	0	0	0	0	0	0

Promotion/Non-Selection	0	0	0	0	0	0	0	0	1	100	0	0
Reassignment	0	0	0	0	0	0	0	0	0	0	0	0
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0	0	1	100	1	100	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Pending Complaints Filed in Previous Fiscal Years by Status (29 CFR 1614.704(l))	Comparative Data (29 CFR 1614.705)										1 st Qtr FY 2008 1/10/07 until 12/31/07	
	Previous Fiscal Year Data											
	FY 2003	FY 2004		FY 2005		FY 2006		FY 2007				
Total complaints from previous Fiscal Years	22	37		74		121		126		124		
Total complainants from previous Fiscal Years	12	25		50		42		54		84		
Number of Complaints Pending												
Investigation	5	13		11		6		1		18		
Hearing	10	13		30		26		44		50		
Final Action	3	4		17		17		21		29		
Appeal with EEOC Office of Federal Operations	0	0		0		0		0		0		
*ROI issued, pending Complainant's action data not available at this time.												
Complaint Investigations (29 CFR 1614.704(m))	Comparative Data (29 CFR 1614.705)										1 st Qtr FY 2008 1/10/07 until 12/31/07	
	Previous Fiscal Year Data											
	FY 2003	FY 2004		FY 2005		FY 2006		FY 2007				
Pending Complaints Where Investigation Exceeds Required Time Frames	3	16		28		19		11		17		